IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O.O.C.J.

WRIT PETITION NO.1756 OF 1990

1. Smt.Ratty Phiroze Javeri
(Nee Ratty J. Daruvala) of
Bombay Indian Inhabitant,
residing at "Belvedere Court",
148, Maharshi Karve Road,
Bombay 400 020.

2. Shri Dinshaw Jehangir Daruvala
of Bombay Indian Inhabitant,
residing at "Belvedere Court",
148, Maharshi Karve Road,
Bombay 400 020. .. Petitioners

v/s.

1. The Life Insurance Corporation
of India, appointed under the
Life Insurance Corporation Act,
1956 and having its Registered
office at "Yogakshema" Jeevan
Bima Marg, Bombay 400 021.

2. Shri G.W.Arora,
Estate Officer appointed by the
Life Insurance Corporation of
India, Western Zone having his
office at "Yogakshema Building",
Jeevan Bima Marg, Bombay 400 021. .. Responkdents

Mr.F.P.Pooniwala with Ms.B. D'Souza i/by M/s.Mehta & Girdharlal for the petitioners.

Mr.C.J. Sawant with Ms.Snehal Paranjpe i/by M/s.Little & Co. for the respondent No.1.

**CORAM : R.M. LODHA AND**
**J.P. DEVADHAR, JJ.**

**DATED : 17th June, 2005**

**ORAL JUDGMENT (Per R.M.Lodha, J.)**

Heard.

2. The petitioners by means of this writ petition seek to impugn two show-cause notices. One, the

notice issued under section 4 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 dated 15th March, 1990 and the other notice issued under sub-section (3) of section 7 of the said Act bearing even dates. While challenging these notices, the petitioners have sought for many reliefs interalia, the challenge to the constitutional validity of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971.

3. The learned counsel for the petitioners submitted that the constitutional validity of the said Act having been upheld by the Supreme Court, he does not have anything to say in this regard.

4. As regards the notice issued to the petitioners under sub-section (3) of section 7 of the Act of 1971, the learned counsel for the respondents submits that the said notice may be permitted to be withdrawn with liberty to the respondents to apply for recovery of damages after the conclusion of the eviction proceedings.

5. The submission is reasonable.

6. In so far as notice under section 4 of the Act of 1971 issued to the petitioners is concerned, in our considered view, the petitioners should respond to the said notice by filing an appropriate reply

before the Estate Officer. The Estate Officer, obviously, shall give reasonable opportunity of being heard to the parties and thereafter pass an appropriate order.

7. We, accordingly, dispose of the writ petition by the following order:

(i) The petitioners are permitted to contest the notice issued to them under section 4 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 by filing an appropriate reply before the Estate Officer. The Estate Officer shall decide the matter after giving reasonable opportunity of being heard to the petitioners.

(ii) All contentions of the petitioners are kept open to be agitated before the Estate Officer in contesting the notice issued to them under section 4 of the Act of 1971.

(iii) The notice under section 7(3) of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 dated 15.3.1990 issued to the petitioners stands withdrawn. The

respondents, however, shall be at liberty to take fresh steps for recovery of damages after the conclusion of the eviction proceedings.

No costs.

**(R.M.LODHA, J.)**

**(J.P. DEVADHAR, J.)**